THE RESPONSIVE ANSWER IN EQUITY CONSIDERED AS EVIDENCE FOR THE DEFENDANT. — That the responsive answer of the defendant, under oath, is conclusive, unless contradicted by two witnesses or by one witness and circumstances as corroborative as the testimony of another witness, is a rule of equity well established by American authority. The fact that this forces the plaintiff not only to maintain the allegations of his bill but also to overcome the positive responsive averments of the answer by testimony equivalent to that of two witnesses gives the defendant an obvious advantage. So unjust has this advantage seemed, that the eminent Pennsylvania lawyer, John Marshal Gest, has been led in a recent article to investigate the origin, history, and scope of the rule and to urge the advisability of its abolition. *The Responsive Answer in Equity Considered as Evidence for the Defendant*, 52 Am. L. Reg. 537. The understanding of this rule necessitates the consideration of two others, the two-witness rule and the rule excluding the testimony of parties. The history of each of these is very properly but somewhat elaborately traced by the learned writer. He finds that the former rule existed in both the canon and civil law at the time the Chancery rules were being formulated, and that from these systems of law it was adopted by Equity. But although the latter rule was at the same time in operation in the courts of law, it was not made a part of equity practice, since its effect would have been to limit the power of the Chancellor in obtaining evidence for the enlightenment of his conscience. From the first, then, the defendant in equity, though a party, was compelled to answer under oath. It was not until later, however, that any part of this answer came to be regarded as evidence in the defendant's favor. The English authorities never went much farther than to consider only that part of the answer which was a denial of the bill as evidence for the defendant, which is but saying that the plaintiff must establish his allegations by more than one witness. But in America even positive averments in the answer which are responsive are considered as evidence for the defendant. The American doctrine was rested on the theory that, since the defendant could be compelled in this extraordinary manner to answer under oath, his answer should be considered as evidence for himself as well as for the plaintiff. For the reason, then, that it was evidence under oath, the plaintiff, having the burden of proof, could not, under the two-witness rule, rebut it by one oath alone. To-day, however, the answer of the defendant under oath is not extraordinary relief, for the rule excluding the testimony of parties has been abolished. Mr. Gest urges that since the existence of that rule was one of the main reasons for the origin and continuance of the equity rule, the latter should be abolished also. He suggests too that the weight of testimony can be more accurately determined by a consideration of the character of the witness than by depending upon preponderance in the number of witnesses. After following Mr. Gest's arguments one is not surprised to learn that the rule has been abolished in many American jurisdictions.

EFFECT OF MISTAKE UPON CONTRACTS. — An attempt has been made in a recent article to define the principles underlying the law on this subject, and to show how a failure to clearly recognize them has led to confusion among the authorities. *A Critical Analysis of the Law as to Mistake in its Effect upon Contracts*, Anon., 38 Am. L. Rev. 334 (May–June, 1904). The writer by a careful and searching analysis of the cases points out that the granting of relief against mistake rests upon two totally different theories. In the first class he places those cases in which, owing to a mistake of one party as to the contract itself, there has been no real meeting of the minds, and hence no valid contract. *Cf. Raffles* v. *Wichelhaus*, 2 H. & C. 906. Here the mistaken party must show that his mistake was reasonable; otherwise he is estopped from alleging it. Under the second class are included those cases where an actual meeting of the minds has been brought about by mistake as to some supposed fact. Here, not only must the mistake be common to both parties in order to avoid, but also it must be in regard to a fact so evidently within their contem-